

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER

Office of Tax and Revenue



NOTICE OF FINAL RULEMAKING

The Office of Tax and Revenue (OTR), pursuant to the authority set forth in the D.C. Official Code § 1-204.24c, as amended by Section 155 of the District of Columbia Appropriations Act 2001, approved November 22, 2000 (114 Stat. 2476; Pub. L. 106-522) and the Office of the Chief Financial Officer, Financial Management and Control Order No. 00-5, effective June 7, 2000, took final action to adopt new Taxation Regulations and to replace the title of Section 105 of Chapter 1, INCOME AND FRANCHISE TAXES, of Title 9 of the D.C. Municipal Regulations (DCMR). The regulations add new Sections 105.7 *et seq.* to Section 105 of Chapter 1 of Title 9 of DCMR relating to electronic filing and payment requirements for certain District taxes. **Notice of Proposed Rulemaking was published in the *D.C. Register* on February 21, 2003, at 50 DCR 1817.** These final rules will be effective upon publication of this notice in the *D.C. Register*.

The regulations delete the current title of Section 105 of Chapter 1 of Title 9, District of Columbia Municipal Regulations, substituting therefor the following:

105 GENERAL REQUIREMENTS FOR FILING TAX RETURNS (INCLUDING ELECTRONIC [INTERNET] FILING)

The regulations modify Section 105 of Chapter 1 of Title 9 of DCMR by adding the following new Sections 105.7 *et seq.* to the existing Sections 105.1 to 105.6:

**105.7 –
105.9 [Reserved.]**

105. 10 Administration of Electronic [Internet] Filing: Pursuant to D.C. Official Code § 47-4402(c), the Office of the Chief Financial Officer (OCFO) may prescribe [by emergency rules, administrative notices, forms and instructions, as well as in operational guidance (in the form of Notices and Letters)], the procedures and criteria required to be followed by certain taxpayers in order to file and pay taxes by electronic funds transfer methods, generally, by filing over the Internet directly to the Office of Tax and Revenue (OTR).

- (a) Within OCFO, generally, OTR shall have primary responsibility for promulgating regulations and issuing the letters or notices necessary to implement the electronic filing of tax returns, as well as, for the determination of the taxpayers to which these rules apply.

(b) The following items are examples of topics for which rules may be set out in the forms listed in paragraph 105.10, e.g., as emergency regulations and administrative notices:

- (1) the acceptable indicia of timely filing and payment;
- (2) the electronic filing method or methods a particular type of taxpayer may or may not use;
- (3) the type of taxes to which electronic filing and payment requirements apply for any given tax year and implementation dates;
- (4) the dollar amount of tax liability per year which, when exceeded, requires or permits electronic funds transfer for payment of tax to OTR. Unless and until a legislative rule is promulgated or this section is amended, the OCFO shall determine both the dollar amount requiring electronic filing or payment and the tax type to which such requirements shall apply;
- (5) the exceptions, if any, allowable, and the alternative methods of payment to be used for any exceptions;
- (6) any provisions needed to implement the civil and/or criminal penalties to be imposed for violations of this section; and
- (7) any other provisions necessary to ensure the timely implementation of electronic filing and electronic funds transfer payments.

105.11 Electronic Filing Process Regulations shall apply to all taxpayers subject to filing any tax return, declaration, or statement as specified in the regulations, notices, letters and forms listed in paragraph 105.10; Electronic Filing Process Regulations shall also apply to the requisite payment requirements under authority granted by D.C. Official Code.

(a) These electronic filing process regulations shall apply to:

- (1) A third party bulk filer who must transmit all payments and tax data electronically by the prescribed due date. This can be done by means of the Electronic Taxpayer Service Center (eTSC) or through an Automated Clearing House (ACH) credit transfer. A third party bulk filer is a person or company who collects taxes for another taxpayer for the purpose of filing returns and depositing withheld taxes, or who files returns and makes payments for multiple taxpayers.
- (2) Taxpayers located in the District as well as taxpayers located outside the District who are required to file District tax returns described in this section, or in Section 105.10.
- (3) Certain taxpayers filing certain tax returns where the payment will exceed \$25,000, and to other taxpayers as required or permitted under D.C. Official Code.

(b) Taxpayers subject to these regulations will have the option to select between/among the methods of filing and payment listed in regulations, notices or forms published by

OTR, e.g., currently, there is a choice between electronic PC-based filing or an ACH interface.

- (c) A taxpayer that is required to remit payments by electronic funds transfer shall initiate the transfer so that the tax due is deposited to the designated depository account on or before the date that the tax is due. If a tax due date falls on a day other than a business day, the deposit by electronic funds transfer is due on the first business day thereafter.
- (d) A taxpayer that is required to remit payments by electronic funds transfer and who is unable to make a timely payment because of system failures within the banking system/ACH interface that are beyond the taxpayer's control will not be subject to penalty and interest for late payment.
- (e) OTR and the Treasurer will provide one or more methods for taxpayers that remit taxes by electronic funds transfer to verify and acknowledge that the payments have been received by the OTR. These verification and acknowledgement methods will be specified in the regulations, notices, and forms published pursuant to paragraph 105.10.
- (f) If a taxpayer does not make a payment of tax for a particular period, such taxpayer shall, on the nearest business day to the date on which the payment is discovered, make proper adjustment for such period by calling OTR to receive instructions for resolving the discrepancy. If the taxpayer error involves an underpayment of tax, interest shall be charged and penalties may apply as set out in paragraph 105.13.

105.12 The following Electronic Filing Acceptance Process shall apply under these regulations: on or after the 30th calendar day following the date on which this Rule is published in the *D.C. Register*, OTR shall, by registered, certified or other form of mailing selected by OTR, send a letter or notice to the taxpayers identified by OTR to be required (by statute or regulations) to file and pay electronically, formally advising the taxpayer of his responsibilities under the Program.

- (a) Within 30 calendar days of the date of the OTR letter or notice referenced in section 105.12 above, a taxpayer required to participate in the electronic filing program will be asked to register for electronic filing and payment of certain taxes by logging on to a designated OTR Website to receive a "PIN" number or other form of customer identification authorizing the taxpayer to participate in the program. Currently, a taxpayer who registers with OTR will receive a User ID and Password in separate e-mails. The User ID and Password allow taxpayers 24-hour access to the OTR Electronic Filing System.
- (b) A taxpayer required to participate in the program shall file its return and make its first payment of tax on or before the designated due date specified on the tax form, or no later than 60 calendar days following the receipt by the taxpayer of the notice.

105.13 The penalty for non-compliance with the requirements of these regulations: any taxpayer identified by OTR as required to participate in the electronic filing program pursuant to paragraphs 105.10 and 105.12 above, as well as in future operational guidance issued by OTR in Notices published in the *D.C. Register* who fails to enroll, file and make payment under the program shall be liable to pay a penalty equal to 10 percent of the amount due as shown on the tax return. This penalty shall be in addition to any other penalty(ies) and interest that may be assessed for late filing and payment, and applies even if payment by some other method is timely made. OTR shall have the discretion to waive this penalty for reasonable cause.

105.14 - [Reserved.]
105.98

105.99 DEFINITIONS--The following definitions apply to this section:

Electronic Funds Transfer - means and includes automated clearinghouse debit, automated clearinghouse credit, credit card approved for payment by OTR, or any other means recognized by OTR for the payment of taxes electronically.

- (1) The taxpayer that makes payments by electronic funds transfer shall be responsible for all fees and processing costs related to the funds transfer, and
- (2) OTR shall designate which credit cards may be used to remit tax payments. Such transfer shall be subject to all notices published at www.dc.gov under "Taxpayer Services."
- (3) Currently, taxpayers can pay any taxes owed using a Discover/NOVUS, MasterCard, VISA, or American Express card by calling 1-800-2PAY-TAX [272-9829], and then entering 6000. This service is available 7-days-a-week, 24-hours-a-day. Taxes will be paid directly with the credit card processing vendor, Official Payments Corporation. The Office of Tax and Revenue will receive the credit card transaction from the vendor and immediately apply the payment to the taxpayer's account. Official Payments Corporation will charge taxpayers a 2.5% fee for this service. This fee is sent directly to the Official Payments Corporation and not to the District government.

Third Party Bulk Filer - a person or company who collects taxes for another taxpayer for the purpose of filing returns and depositing withheld taxes, or who files returns and makes payments for multiple taxpayers.

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